State of New Hampshire Banking Department

In re the Matter of:) Case No.: 07-160
)
State of New Hampshire Banking) Order to Show Cause
)
Department,)
-)
Petitioner,)
)
and)
)
Robert H. Scatamacchia,)
)
Respondent)
)

NOTICE OF ORDER

This Order commences an adjudicative proceeding under the provisions of RSA 397-A:17, RSA 541-A and BAN 200.

LEGAL AUTHORITY AND JURISDICTION

Pursuant to RSA 397-A:17, the Banking Department of the State of New Hampshire (hereinafter the "Department") has the authority to issue an order to show cause why license revocation penalties for violations of New Hampshire Banking laws should not be imposed.

Pursuant to RSA 397-A:21, the Commissioner has the authority to suspend, revoke or deny any license and to impose administrative penalties of up to \$2,500.00 for each violation of New Hampshire banking law and rules.

NOTICE OF RIGHT TO REQUEST A HEARING

The above named respondent has the right to request a hearing on this Order to Show Cause, as well as the right to be represented by counsel at the Respondent's own expense. All hearings shall comply with RSA 541-A. Any such request for a hearing shall be in writing, and signed by the respondent or the duly authorized agent of the above named respondent, and shall be delivered either by hand or certified mail, return receipt requested, to the

1 | F 2 | C 3 | F 4 | t 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C 5 | C

6

8

7

9

11 12

13

14

15

16 17

18

19

21

20

22

23

2425

Banking Department, State of New Hampshire, 64B Old Suncook Road, Concord, NH 03301. Such hearings will be scheduled within 10 days of the request. If the Respondent fails to appear at the hearing after being duly notified, such person shall be deemed in default, and the proceeding may be determined against the Respondent upon consideration of the Order to Show Cause, the allegations of which may be deemed to be true.

If the Respondent fails to request a hearing within 30 calendar days of receipt of such order or reach formal settlement with the Department within that time frame, then such person shall likewise be deemed in default, and the orders shall, on the thirty-first day, become permanent, and shall remain in full force and effect until and unless later modified or vacated by the commissioner, for good cause shown.

STATEMENT OF ALLEGATIONS, APPLICABLE LAWS AND REQUEST FOR RELIEF

The <u>Staff Petition</u> dated September 10, 2007 (a copy of which is attached hereto) is incorporated by reference hereto.

ORDER

WHEREAS, finding it necessary and appropriate and in the public interest, and consistent with the intent and purposes of the New Hampshire banking laws, and

WHEREAS, finding that the allegations contained in the Staff Petition, if proved true and correct, form the legal basis of the relief requested,

It is hereby ORDERED, that the Respondent shall show cause why:

- Administrative penalties of \$2,500.00 should not be imposed;
 and
- 2. Statutory penalties of \$2,500.00 should not be imposed; and
- 3. Respondent's license should not be revoked; and

It is hereby ORDERED that:

4. Failure to request a hearing within 30 days of the date of receipt of this Order shall result in a default judgment being

rendered, license revocation and administrative penalties imposed upon the defaulting Respondent. SIGNED, Dated: <u>9/10/07</u> /S/ PETER C. HILDRETH BANK COMMISSIONER

1 State of New Hampshire Banking Department In re the Matter of:) Case No.: 07-160 2 State of New Hampshire Banking Staff Petition 3) 4 Department, 5 Petitioner, September 10, 2007 6 and 7 Robert H. Scatamacchia, 8 Respondent 9 10 STATEMENT OF ALLEGATIONS The Staff of the Banking Department, State of New Hampshire 11 I. 12 (hereinafter referred to as the "Department) alleges the following 13 facts: 1. Robert H. Scatamacchia (hereinafter "Respondent") is licensed as a 14 Mortgage Broker and at all times relevant to this action has held 15 a Department license since at least 1997. 16 17 2. The Respondent's fiscal year end was December 31, 2006 and the 18 financial statement was due on or before April 2, 2007. 19 3. On April 4, 2007 the Department sent the Respondent a letter 20 advising them that the financial statement had not been received and they had begun to accrue a \$25.00 per day fine for late 2.1 submission of materials. 22 23 4. On April 25, 2007 the Department sent the Respondent a second reminder letter regarding the accruing fine. 24 25 5. To date the Respondent has failed to file the financial statement.

- 6. The Respondent has a history on not submitting required paperwork or paying invoices on time, to wit:
 - a. The Respondent was fined for late submission of a financial statement in 2005. That fine was paid five months late.
 - b. The Respondent was fined for late submission of an annual report in 2004, 2005 and 2007. Each of those invoices was paid late.
 - c. The Respondent paid his 2003 examination bill four months after the sixty day statutory period had expired.
 - d. The Respondent paid his 2004 examination bill four months after the sixty day statutory period had expired.
 - e. The Respondent paid his 2006 examination bill four months after the sixty day statutory period had expired.

ISSUES OF LAW

- II. The staff of the Department, alleges the following issues of law:
 - The Department realleges the above stated facts in paragraphs 1 through 5.
 - The Department has jurisdiction over the licensing and regulation of persons engaged in mortgage broker activities pursuant to NH RSA 397-A:3.
 - 3. RSA 397-A:13 II provides that a licensee shall file its financial statement within 90 days from the date of its fiscal year end. The Respondent violated this provision by failing to submit its financial statement.

- 4. RSA 397-A:13 IV provides that any mortgage broker which fails to file its financial statement within the time prescribed may be required to pay to the department a penalty of \$25.00 for each calendar day the statement is overdue up to a maximum penalty of \$2,500.00.
- 5. RSA 397-A:21 IV provides that any person who, either knowingly or negligently, violates any provision of Chapter 397-A, may upon hearing, and in addition to any other penalty provided for by law, be subject to suspension or revocation of their license or an administrative fine not to exceed \$2,500.00, or both.

 Each of the acts specified shall constitute a separate violation, and such administrative action or fine may be imposed in addition to any criminal penalties or civil liabilities imposed by New Hampshire Banking laws.

RELIEF REQUESTED

- III. The staff of the Department requests the Commissioner take the following Action:
 - Find as fact the allegations contained in section I of this petition;
 - Make conclusions of law relative to the allegations contained in section II of the this petition;
 - 3. Order Respondent to Show Cause why its license should not be revoked;
 - 4. Assess fines and administrative penalties in accordance with RSA 397-A:21, for violations of Chapter 397-A, in the number

and amount equal to the violations set forth in section II of 1 this petition; and 2 5. Take such other administrative and legal actions as necessary 3 4 for enforcement of the New Hampshire Banking Laws, the protection of New Hampshire citizens, and to provide other 5 equitable relief. 6 7 RIGHT TO AMEND 8 IV. The Department reserves the right to amend this Staff Petition and 9 to request that the Commissioner take additional administrative action. Nothing herein shall preclude the Department from bringing 10 additional enforcement action under RSA 397-A or the regulations 11 12 thereunder. Respectfully submitted by: 13 14 9/10/07 15 James Shepard Date Staff Attorney 16 17 18 19 20 21 22 23 24 25